

Exhibit 4

Day 05 Hearing Transcript

1 BEFORE THE

2 UNITED STATES INTERNATIONAL TRADE COMMISSION

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5 In the Matter of:) Investigation No.
6 CERTAIN GAMING AND) 337-TA-752
7 ENTERTAINMENT CONSOLES,)
8 RELATED SOFTWARE, AND)
9 COMPONENTS THEREOF)
10 -----

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12 Hearing Room A

13
14 United States
15 International Trade Commission
16 500 E Street, Southwest
17 Washington, D.C.

18
19 Friday, January 13, 2012

20
21 VOLUME V

22
23 The parties met, pursuant to the notice of the
24 Judge, at 9:31 a.m.

25 BEFORE: THE HONORABLE DAVID P. SHAW

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1 requests a license. 02:06:29

2 Q So let's see if we can -- I want to pin this 02:06:31
3 down and make sure I understand what you're saying. 02:06:34

4 You're saying that the RAND obligation is 02:06:39
5 limited to prospective licensees who affirmatively 02:06:43
6 contact the patent owner with a request for a license? 02:06:47

7 A The policy envisions that once there's a 02:06:53
8 letter of assurance -- and this is posted on, in 02:06:55
9 IEEE's case, their patent policy list -- that the 02:07:00
10 patent holder would be expected to -- to receive any 02:07:04
11 requests from applicants who wish to engage in 02:07:12
12 negotiations to -- that would result in a RAND 02:07:16
13 license. That's the concept. 02:07:21

14 Q Let me give you a hypothetical and see if 02:07:22
15 we're on the same page or not. Suppose Motorola has 02:07:24
16 essential patents, and suppose Motorola approaches a 02:07:27
17 company that it believes are -- is infringing those 02:07:32
18 essential patents. There are letters of assurance. 02:07:37

19 Are you saying that Motorola has no RAND 02:07:40
20 obligations toward that company because Motorola 02:07:44
21 approached them first? 02:07:47

22 A No, I'm not. 02:07:49

23 Q Okay. And it would be fair to say that you 02:07:51
24 don't think a patent owner's RAND obligations turn on 02:07:54
25 the question of whether the patent owner or the 02:07:57

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1 prospective licensee makes the first contact? 02:08:00

2 A No, I do not. 02:08:03

3 Q And you don't think that a party like 02:08:03

4 Motorola can avoid its RAND commitments or that the 02:08:05

5 RAND obligations turn on the question of whether 02:08:10

6 the -- let me see if I can rephrase that. 02:08:13

7 You're not saying that a party like Motorola 02:08:18

8 can avoid its RAND obligations simply by beating 02:08:20

9 potential licensees to the punch and by making the 02:08:24

10 first contact with a potential licensee? 02:08:27

11 A Well, I -- I don't want to -- I wouldn't 02:08:30

12 want to characterize the scenario quite that way. The 02:08:33

13 policy clearly states that the license -- the offer of 02:08:36

14 a willingness to license is relied upon by 02:08:42

15 implementers who have a desire to use that license. 02:08:46

16 And it doesn't say whether the implementer comes first 02:08:51

17 or whether the patent holder goes first. So the whole 02:08:55

18 idea of IEEE is to get the widest promulgation of the 02:08:59

19 standard that they can, and to be inclusive in that 02:09:05

20 regard. 02:09:08

21 Q All right. Now, suppose a company requests 02:09:09

22 a license to essential patents, and there are letters 02:09:12

23 of assurance. Is the patent holder in your view 02:09:17

24 required to make an offer? 02:09:20

25 A They're required to offer to engage in good 02:09:22